

EXHIBIT 1

REDACTED VERSION OF DOCUMENT(S) SOUGHT TO BE SEALED

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INTERO REAL ESTATE SERVICES,
Defendant.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RONALD CHINITZ, *individually, and
on behalf of a class of similarly situated
persons,*

Plaintiff,
vs.

CASE NO. 5:18-cv-05623-BLF
**DECLARATION OF CRAIG L.
DAVIS REGARDING
DOCUMENTS AND
INFORMATION PRODUCED BY
LEXISNEXIS IN RESPONSE TO
SUBPOENAS**

CHINITZ V. INTERO REAL ESTATE SERVICES (CASE NO. 5:18-cv-05623-BLF)

DECL. RE: DOCUMENTS/INFORMATION PRODUCED IN RESPONSE TO SUBPOENAS

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1 I, Craig Davis, declare as follows:

2 1. I am a Custodian of Records at LexisNexis Risk Solutions FL Inc.
3 ("LexisNexis"). I make this declaration based upon my personal knowledge, my
4 experience working for LexisNexis, and my review of LexisNexis's records
5 maintained in the ordinary course of business. In my role, I have knowledge of the
6 processes and procedures by which LexisNexis provides batch processing services
7 for its clients. I have personal knowledge of the manner and method by which
8 LexisNexis maintain and creates its business records, I am familiar with the
9 documents attached to this declaration as they are similar to business records I
10 regularly rely on as authoritative in my roles with LexisNexis. If called as a
11 witness in this case, I could and would testify competently to the contents of this
12 declaration.

13 2. LexisNexis received a copy of a Subpoena To Produce Documents,
14 Information, or Objects, Or To Permit Inspection Of Premises In A Civil Action, in
15 this action, dated March 16, 2020. A true and correct copy of the subpoena is
16 attached hereto as **Exhibit A**.

17 3. Attached hereto as **Exhibit B** are true and correct copies of business
18 records of LexisNexis that are responsive to the subpoena.

19 4. Among the records produced is an application for services and
20 agreement between LexisNexis and Arthur Reus, PA (Bates numbers, LN000001 -
21 LN000003; the "Agreement"). LexisNexis's business records reflect that the
22 customer entity contracting under this agreement was changed in April, 2019 from
23 Arthur Reus, PA to Class Experts Group, LLC. Also among the records produced
24 is a set of Terms & Conditions for service that are incorporated into the Agreement
25 by reference. (Bates numbers, LN000008-LN000023; the "Terms & Conditions").

26 5. I understand that Anya Verkhovskoya, who is associated with Class
27 Experts Group, LLC, has referenced services provided by LexisNexis and the data
exchanged between our companies in paragraphs 56-57 of the January 28, 2020

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1 expert report in this case that was attached to the document subpoena in Exhibit A.
2 Those paragraphs describe providing LexisNexis with a list of phone numbers and
3 receiving from LexisNexis responses indicating for what type of use LexisNexis
4 believes the numbers are being or have been used, i.e., business, residential or
5 government. This information is sometimes referred to as a “BusResGov” flag.

6. I understand that Ms. Verkhovskaya’s counsel has confirmed that the
7 searches described in paragraphs 56-57 of the January 28, 2020 expert report were
8 run by CEG on January 17, 2020. LexisNexis’s records reflect two batch searches
9 submitted by CEG on that date, one for which the input file was “NDNCR Output -
10 Corp.” and another for which the input file was “NDNCR Output - NonCorp.”
11 LexisNexis’s records reflect that both input files were processed under LexisNexis
12 work request 65920. A copy of that work request is included in the produced
13 documents at Bates LN000024-LN000028. The work request indicates that CEG
14 will supply a phone number, a start date and an end date, and LexisNexis will
15 return the input values, plus a “BusResGov” flag, plus a start date and an end date
16 for that value. Engineering notes regarding the logic and instructions for
17 populating the “BusResGov” results field are included in the produced documents
18 at Bates LN000029.

7. LexisNexis’s classification of a telephone number as business,
residential or government is largely derived from directories published for landline
telephones. Most local telephone operating companies publish directories
consisting of white pages (residential numbers), yellow pages (business numbers)
and blue pages (government numbers). LexisNexis does not have data classifying
all telephone numbers as business, residence or government. This is due in part to
the fact that LexisNexis has very little “line type” information for mobile telephone
numbers.

8. When a process calls for LexisNexis to return a BusResGov flag on a
searched phone number, but LexisNexis does not have such information on the

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1 number, the “BusResGov” flag field is left blank, unless in the process of setting
2 up the search, the customer has asked that some other value be used to show that
3 LexisNexis cannot provide a line type, in which case LexisNexis supplies that
4 value.

5 9. While telephone numbers are sometimes concurrently used for more
6 than one type of service (e.g., building tradesperson or tech freelancer using a
7 single number for business and residential calls), LexisNexis returns only a single
8 BusResGov flag value for each telephone number at any particular time. Because
9 telephone directory listings can be changed, and because telephone numbers can be
10 reassigned to different users, LexisNexis will sometimes report different line type
11 values for the same telephone number at different times.

12 10. While the specifications for work request 65920 called for CEG to
13 supply start and end dates for each telephone number to be queried, no start dates
14 or end dates were provided by CEG in the two input files furnished to LexisNexis
15 on January 17, 2020. Copies of the input files received by LexisNexis from CEG
16 on January 17, 2020 are being produced in electronic form as documents
17 responsive to Intero’s document subpoena.

18 11. The engineering notes for work request 65920 establish logic under
19 which a Business, Residential or Government value will be returned for a
20 telephone number only if LexisNexis’s first seen and last seen dates overlap with
21 some part of the period delimited by the start date and end date supplied by CEG in
22 its search request. Because CEG supplied no start and end dates, and the
23 consequent lack of “overlaps”, virtually all of the numbers queried in the
24 January 17, 2020 searches failed to return a Business, Residential or Government
25 value. (In a handful of cases, the absence of a “first seen date” in LexisNexis’s
26 data allowed a “Residential” value to be returned.) Because no Business,
27 Residential or Government value was returned, the “BusResGov” field in the
search results was populated with “MLR.” “MLR” is not a standard LexisNexis

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1 value. It appears from the engineering notes for work request 69520 to have been
2 requested by CEG. Copies of the output files provided by LexisNexis to CEG on
3 January 17, 2020 are being produced in electronic form as documents responsive to
4 Intero's document subpoena. The January 17 results would have been different
5 had CEG supplied start and end dates as part of its queries.

6 I declare under penalty of perjury under the laws of the United States that
7 the foregoing is true and correct. Executed at Kettering, Ohio on this 17 day of
8 April, 2020.

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11 Craig L. Davis
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REDACTED VERSION OF DOCUMENT(S) SOUGHT TO BE SEALED**CERTIFICATE OF SERVICE**

I hereby certify that on this 17th day of April, 2020, I served the DECLARATION OF CRAIG L. DAVIS REGARDING DOCUMENTS AND INFORMATION PRODUCED BY LEXISNEXIS IN RESPONSE TO SUBPOENAS, as well as four files consisting of Excel spreadsheets, and named as follows:

NDNCR_Output_-_Corp.csv

NDNCR_Output_-_NonCorp.csv

LN_Output_NDNCR_Output_-_Corp.csv

LN_Output_NDNCR_Output_-_NonCorp.csv

via electronic mail upon the following counsel of record:

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6 /s/ James F. McCabe
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